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Situation of human rights in Turkmenistan

Report of the Secretary-General*

Summary

The present report is submitted pursuant to General Assembly resolution 60/172, in which the Assembly requested the Secretary-General to submit a report to it at its sixty-first session on the implementation of that resolution.

It concludes that gross and systematic violations of human rights continued in the country, notwithstanding gestures made by the Government. The main areas of concern referred to in the report are the situation of human rights defenders, severe restrictions on the freedom of expression and information, including repression of political dissent, restrictions on the enjoyment of religion, the situation of minorities, the use of torture, the absence of an independent judiciary and limited access to health-care services and education. The report contains a number of recommendations from the Secretary-General to the Government of Turkmenistan on cooperation with the treaty bodies, the special procedures of the Human Rights Council and the Office of the United Nations High Commissioner for Human Rights. The Secretary-General further calls upon the Government to improve the environment for human rights defenders and to take verifiable measures to stop the use of torture and to ensure that all prisoners have access to lawyers of their choice and independent observers.

* The present report was submitted after the deadline so as to reflect the most updated information.

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I. Introduction

1. The situation of human rights in Turkmenistan has been considered by the Commission on Human Rights and the General Assembly since 2003, with successive resolutions being adopted, most recently Commission on Human Rights resolution 2004/12 of 15 April 2004 and General Assembly resolution 60/172 of 16 December 2005. The present report is submitted pursuant to paragraph 4 of the latter resolution, by which the General Assembly requested the Secretary-General to submit a report to it at its sixty-first session on the implementation of this resolution.

II. Implementation of General Assembly resolution 60/172

A. Cooperation with the Office of the United Nations High Commissioner for Human Rights

2. As noted last year in the report of the Secretary-General on the situation of human rights in Turkmenistan (A/60/367), following a needs-assessment mission from 15 to 20 March 2004 to Turkmenistan, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Development Programme (UNDP) jointly developed a one-year technical cooperation project on treaty-body reporting. The project seeks to enhance knowledge and awareness among the authorities and to strengthen capacity for human rights treaty-body reporting. The project was designed initially for one year, with a possible extension for another year aimed at strengthening the capacities already built in the area.

3. The Government of Turkmenistan approved this joint project in March 2006 and project implementation started in June 2006.

4. The High Commissioner for Human Rights recently appointed a Regional Representative for Central Asia, placed in Bishkek, with a view to further engaging with the countries in the region.

B. Cooperation with the special procedures established by the Commission on Human Rights and assumed by the Human Rights Council

5. In addition to the eight special procedures mentioned in the 2005 report of the Secretary-General, two more special rapporteurs have requested invitations to visit the country, namely the Special Rapporteur on the right to education (in April 2006) and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (in May followed by a reminder in July 2006). This expanded the range of special procedures requesting a visit from political and civil rights to the area of social and economic rights.

6. Turkmenistan has not extended a standing invitation to thematic special procedures, nor did it extend an invitation to any of the special procedures to visit the country.

7. Special procedures continued to receive information regarding alleged human rights violations in Turkmenistan. During the period following last year's report, a total of eight communications were addressed to the Government, namely by the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and by the Special Rapporteur on freedom of religion or belief.

8. At the time the present report was being prepared, the Government had replied to two of these communications.

9. A number of special procedures also referred to Turkmenistan in their reports submitted to the Commission on Human Rights at its sixty-second session and the sixtieth session of the General Assembly. These included the Special Representative of the Secretary-General on human rights defenders (E/CN.4/2006/95/Add.5), the Working Group on Arbitrary Detention (E/CN.4/2006/7/Add.1), the Special Rapporteur on freedom of religion or belief (E/CN.4/2006/5/Add.1), the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (E/CN.4/2006/48/Add.1), the Special Rapporteur on the question of torture (E/CN.4/2006/6/Add.1) and the Special Rapporteur on violence against women, its causes and consequences (E/CN.4/2006/61/Add.1).

C. Cooperation with the United Nations treaty bodies and status of ratifications

10. As mentioned in the previous report of the Secretary-General, Turkmenistan has ratified six of the seven main international human rights instruments and some of the optional protocols thereto, namely the International Covenant on Civil and Political Rights, in 1997; the two Optional Protocols thereto in 1997 and 2000, respectively; the International Covenant on Economic, Social and Cultural Rights, in 1997; the International Convention on the Elimination of All Forms of Racial Discrimination, in 1994; the Convention on the Elimination of All Forms of Discrimination against Women, in 1997; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 1999; the Convention on the Rights of the Child, in 1993, as well as the two Optional Protocols thereto, in 2005.

11. Turkmenistan has not recognized the competence of the committees to consider individual communications under the Convention against Torture or the International Convention on the Elimination of All Forms of Racial Discrimination.

12. Turkmenistan has not ratified the Optional Protocol to the Convention against Torture, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Prevention and Punishment of the Crime of Genocide or the Rome Statute of the International Criminal Court.

13. The three reports submitted by Turkmenistan since 2004, namely the combined initial to fifth periodic report submitted in August 2004 to the Committee on the Elimination of Racial Discrimination (CERD/C/441/Add.1), the combined initial and second periodic report submitted in November 2004 to the Committee on the Elimination of Discrimination against Women (CEDAW/C/TKM/1-2) and the initial report submitted in March 2005 to the Committee on the Rights of the Child (CRC/C/TKM/1), were considered by the respective treaty bodies. The Committee on the Elimination of Racial Discrimination adopted its concluding observations in August 2005 (CERD/C/TKM/CO/5), as did both the Committee on the Elimination of Discrimination against Women (CEDAW/C/TKM/CO/2) and the Committee on the Rights of the Child (CRC/C/TKM/CO/1) in June 2006.

14. While welcoming the submission of the reports, the committees generally expressed the need for more information on the practical implementation of the provisions of the conventions, including statistical data, in accordance with the guidelines for preparation of reports. The Committee on the Elimination of Racial Discrimination "noted with deep concern the major contradictions between, on the one hand, consistent information from both intergovernmental and non-governmental sources relating to the existence of grave violations of the Convention in Turkmenistan, and, on the other hand, the sometimes categorical denials by the State party" (CERD/C/TKM/CO/5). The Committee also encouraged the State party to increase its efforts to institute a constructive and sincere dialogue.

15. A number of reports remain overdue: the initial and second periodic reports to the Committee against Torture (due in July 2000 and July 2004), the initial and second periodic reports to the Human Rights Committee (due in July 1998 and July 2003) and its initial report to the Committee on Economic, Social and Cultural Rights (due in June 1999). Falling due in 2007 are: the initial reports under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (April 2007) and under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (May 2007), and the sixth and seventh periodic reports under the Convention on the Elimination of All Forms of Racial Discrimination (October 2007).

D. Cooperation with other organizations and institutions

Organization for Security and Cooperation in Europe

16. The Organization for Security and Cooperation in Europe (OSCE) High Commissioner on National Minorities, Rolf Ekeus, visited Turkmenistan in March 2006, including a visit to the Lebap region in the north of the country. The High Commissioner focused on matters aimed at ensuring the rights of national minorities, including in the field of education, as well as on the programme of resettlement of some members of minority communities located in the northern border areas. Following agreement with President Niyazov, the High Commissioner intends to visit one of the new settlements during his next trip to the country.

17. The OSCE Representative on Freedom of the Media, Miklos Haraszti, visited Turkmenistan in October 2005. He also intervened in a case concerning the refusal to grant an exit visa to a prominent Turkmen opposition writer to leave Turkmenistan in order to receive medical treatment. Another case concerned two

correspondents who went "missing". In response to a request for information on the case sent by the Representative, the Turkmen authorities reported that the correspondents were sentenced to 15 days of community service on charges of disrupting a public meeting. A third case concerned the arrest and denial of access to lawyers of a reporter and a correspondent allegedly due to their previous criticism of the authorities. The OSCE Representative further issued a press release criticizing the sentencing of several journalists in Turkmenistan and condemning the lack of transparency in the handling of the cases, in particular for not allowing observers to monitor the case. Following the death in custody of one of the journalists, the OSCE Representative issued a press release in which, inter alia, he urged the Turkmenistan authorities to handle the case in a transparent way.

18. The OSCE Chairman-in-Office, the Minister for Foreign Affairs of Belgium, Karel de Gucht, visited Turkmenistan in March 2006. The Chairman-in-Office stressed the need to continue improving cooperation with OSCE institutions and units, and called upon the Government to devote increased attention to the "human dimension". He noted, inter alia, that it was important to start political reforms and democratization and to amend national legislation in order to bring it into compliance with international conventions. The Chairman-in-Office also stressed the need for international organizations to have unlimited access to prisoners.

19. Turkmenistan signed a general memorandum of understanding with OSCE for its centre in Ashgabat, which foresees project implementation in all OSCE areas, including projects in the fields of rule of law and strengthening of civil society. The OSCE Centre in Ashgabat supported a number of activities, including a study tour by three members of the Turkmenistan Parliamentary Human Rights Committee to meet with members of the two chambers of the French Parliament in April 2006; two training courses on international human rights standards and mechanisms to implement and protect them, jointly organized with the National Institute for Democracy and Human Rights and the Office of the United Nations High Commissioner for Refugees; and a legal clinic, which provides free legal advice and regularly receives visitors who wish to submit complaints or reports of human rights violations. The OSCE Centre implements a number of small projects intended to strengthen civil society (primarily promoting youth and education development). The centre also maintains an information centre and a small library.

20. In contravention of paragraph 8 of the OSCE 1990 Copenhagen document and the 1999 Istanbul Summit declaration, Turkmenistan generally does not invite the OSCE Office for Democratic Institutions and Human Rights to observe its election proceedings. The Office has not had any election-related contacts with Turkmenistan since 1999 nor implemented any election-related project in Turkmenistan since that time.

International Committee of the Red Cross

21. Discussions concerning the possibility of an agreement that would enable the International Committee of the Red Cross (ICRC) to work on behalf of prisoners and detainees in Turkmenistan continued in 2006 and had not resulted in conclusion of such an agreement at the time of writing.

International Labour Organization

22. Turkmenistan has not submitted its first reports, due since 1999, on Conventions Nos. 29 (Forced Labour Convention) of 1930; 87 (Freedom of Association and Protection of the Right to Organize Convention) of 1948; 98 (Right to Organize and Collective Bargaining Convention) of 1949; 100 (Equal Remuneration Convention) of 1951; 105 (Abolition of Forced Labour Convention) of 1951; and 111 (Discrimination (Employment and Occupation) Convention) of 1958.

E. Developments concerning the full respect for all human rights and fundamental freedoms

23. The following sections are based on information obtained by OHCHR, the special procedures of the Human Rights Council and the United Nations treaty bodies. Due to the limited access to information in Turkmenistan by international human rights bodies, further details on the human rights situation in the country were not available for the preparation of the present report.

Freedom of association and assembly

24. The Special Representative of the Secretary-General on human rights defenders regretted that the Government of Turkmenistan had not provided her with information in response to the questionnaire she transmitted (E/CN.4/2006/95/Add.5) and the lack of sufficient information on the status of the community of human rights defenders in the country. She concluded that in general the legal framework of Turkmenistan was restrictive in terms of the laws and provisions relevant for the work of human rights defenders. The Special Representative expressed deep concern about the severe repression faced by human rights defenders in Turkmenistan, which not only prevents them from operating openly but also puts them at serious risk. She expressed dismay about reported intimidation, harassment, constant surveillance, arbitrary arrests, imprisonment and ill-treatment, reprisals against relatives and restrictions on their rights to freedom of movement. She also expressed concern and alarm about restraints on the right to freedom of association, the lack of free media and restraints on freedom of expression, including reports that the Government subjects all media outlets to pre-publication censorship, that most Russian-language media had been banned and that access to the Internet had been severely restricted. The Special Representative further expressed concern that international human rights defenders had been denied visas to visit the country and about reports that some dissidents had been tracked down and intimidated abroad by the Turkmen Secret Service. The Special Representative is also gravely concerned about reports that the authorities have increasingly attempted to co-opt non-governmental organizations under governmental structures, including through stepping-up scrutiny of funding in relation to independent civil society groups and showing resistance to register such groups. Human rights defenders have been frequently prevented from meeting with representatives of foreign Governments and international organizations; those who have nevertheless managed to attend such meetings have reportedly faced serious repercussions.

25. The Committee on the Rights of the Child expressed its deep concern (CRC/C/TKM/CO/1) that serious obstacles are still hampering the independent

activity of civil society organizations and recommended that the State party remove restrictions on their functioning.

26. The Committee on the Elimination of Discrimination against Women expressed concern about the lack of information about civil society organizations (CEDAW/C/TKM/CO/2), such as women's and human rights organizations, and their role in the promotion of gender equality and implementation of the provisions of the Convention. It urged the State party to provide an enabling environment for the establishment and active involvement of women's and human rights organizations to promote implementation of the Convention.

27. OHCHR received information that several members of the non-governmental human rights organization Turkmenistan Helsinki Foundation and their family members were arrested in June 2006 and that three of them were subsequently sentenced to lengthy prison terms. The charges against them, it was reported, were connected to alleged illegal possession of ammunition and involvement in criminal activities related to the organization of subversive acts and the collection of defamatory information in order to create public dissatisfaction. Reportedly, the trials were closed and fell short of complying with internationally recognized fair-trial standards. OHCHR received allegations that the prisoners had been ill-treated and that one had died. According to the information received, the body bore signs of ill-treatment, with various wounds on the head and the neck.

Freedom of expression and the media

28. The Working Group on Arbitrary Detention reported on a case of arbitrary arrest and detention in a psychiatric hospital in which an individual was detained allegedly for having exercised his freedom of expression in openly criticizing Government policies (E/CN.4/2006/7/Add.1). The Working Group observed that "the allegation that [the detainee] was not allowed to appeal to a judge or independent organ against his internment ... was not challenged" by the Government and that "his activities critical of the Government and the manner in which his internment was carried out ... indicate that he is not undergoing psychiatric treatment, but arbitrary detention, motivated by his having exercised his freedom of expression, and without the observance of the minimum safeguards required by the notion of a fair hearing".

29. The Committee on the Elimination of Racial Discrimination expressed concern over information that Turkmenistan has adopted measures drastically limiting access to foreign culture and art, foreign media and the Internet (CERD/C/TKM/CO/5).

30. The Committee on the Rights of the Child voiced concern over the fact that all sources of information — and media in particular — were subject to Government control and did not allow for diversity (CRC/C/TKM/CO/1). The Committee also regretted that access to foreign culture and media, including the Internet, is very limited.

Freedom of thought, conscience, religion or belief and the protection of the rights of persons belonging to ethnic and religious minorities

31. The Committee on the Elimination of Racial Discrimination also noted in its concluding observations a number of concerns regarding the statistics on the ethnic composition of the population of Turkmenistan; the existing gap between law and practice in Turkmenistan; reported instances of hate speech, including by government officials; consistent information relating to the policy of "Turkmenization"; severe restrictions on participation in the labour force, in particular in public sector employment, by minorities; the policy of forced assimilation and restrictions on the right to work of minorities; restrictions on the freedom of movement of minorities and internally displaced persons; obstacles to the enjoyment of their culture and use of their language by minorities; and obstacles to the enjoyment of religious freedom and non-registration of some religious groups.

32. The Special Rapporteur on freedom of religion or belief referred to a number of situations and individual cases (E/CN.4/2006/5/Add.1), in particular concerning information on harassment of Jehovah's Witnesses, including intimidation, humiliation, fines for undertaking unregistered activities and imprisonment for refusing on religious grounds to serve in the armed forces and alleged harsh treatment of imprisoned conscientious objectors. Information received by the Special Rapporteur also included news that a range of religious communities had failed to obtain registration with the Government and therefore the right to conduct any religious activity and that the demolition of places of worship (mosques) and reprisals against people protesting the demolition had been undertaken. The Special Rapporteur expressed concern about the number of alleged cases of violations or limitations of the right to freedom of religion or belief. He emphasized that the right to freedom of religion was not limited to members of registered religious communities.

33. The Special Rapporteur on violence against women, its causes and consequences, reported (E/CN.4/2006/61/Add.1) on a case of alleged sexual harassment. Two female Jehovah's Witnesses were held overnight at a police station, allegedly as punishment for peacefully exercising their right to freedom of religion. One of them was reportedly sexually harassed, threatened with rape and hit repeatedly by law enforcement officials. The Government reply stated that the allegations concerned had not been confirmed and concluded therefore that the incidents referred to did not take place.

34. The Committee on the Rights of the Child expressed its concern (CRC/C/TKM/CO/1) that, inter alia, as a result of the "Turkmenization" policy of the State party, discriminatory attitudes and practices exist towards certain national and ethnic minorities such as Russians, Uzbeks, Kazakhs, Turks, Kurds, Beludzhi and Germans. It observed that, in particular, members of ethnic minority groups are denied a number of fundamental socio-economic rights, such as access to education, employment and the right to own property, as well as the right to enjoy their culture. The Committee also expressed concern at the information that, while the age of marriage is normally set at 16 years, for Turkmen citizens who marry foreigners and stateless persons, the age of marriage is set at 18 years.

35. The Committee on the Rights of the Child also expressed concern that Turkmenistan religious organizations encounter difficulties related to the procedure for their registration and face restrictions with respect to the exercise of their

activities. The Committee is also concerned at reports of instances of raids on religious meetings and demolition of places of worship.

36. The Committee on the Elimination of Discrimination against Women expressed its concern (CEDAW/C/TKM/CO/2) about the lack of policies and programmes for ethnic and national-minority women and girls who remain in a vulnerable and marginalized situation, in particular with regard to access to education, health, employment and participation in political and public life. The Committee noted with concern the closure of Russian schools.

37. The Working Group on Arbitrary Detention reported on a case concerning two Jehovah's Witnesses who were arrested in May 2004 and charged with refusing to perform military service on religious grounds and sentenced to 18 months of imprisonment (E/CN.4/2006/7/Add.1). The Government reported that both had been granted a pardon (opinion No. 2/2005).

Prison conditions and torture

38. The Special Rapporteur on the question of torture referred to the situation of a number of individuals convicted in December 2002 and January 2003 to prison terms ranging between five years and life for their alleged involvement in what the authorities described as an assassination attempt on the President in November 2002 (E/CN.4/2006/6/Add.1). All these prisoners continue to be held incommunicado, without access to families, lawyers, or independent bodies such as the International Committee of the Red Cross. The Special Rapporteur on the question of torture also mentioned Turkmenistan as one of 33 Governments that have never responded to urgent appeals sent under his mandate (A/60/316), although having received a significant number of urgent appeals.

39. The death in custody of a Radio Free Europe/Radio Liberty journalist, Ogulsapar Muradova, whose body allegedly bore signs of torture, raises particular concern.

40. The Committee on the Rights of the Child expressed its deep concern at the information that torture and ill-treatment of detainees, including children, is widespread (CRC/C/TKM/CO/1), especially at the moment of apprehension and during pre-trial detention, and used both to extract confessions or information and as an additional punishment after the confession.

Freedom of movement (inside the country and freedom to leave the country) and forced displacement

41. The Committee on the Elimination of Racial Discrimination noted with deep concern information that the State party had internally forcibly displaced populations, targeting in particular ethnic Uzbeks to inhospitable parts of Turkmenistan (CERD/C/TKM/CO/5). The Committee was further concerned about reported restrictions on freedom of movement, in particular to travel to internal border regions. It also expressed concern about reported impediments imposed on Turkmen students wishing to study abroad.

42. The Committee on the Rights of the Child expressed concern that children may be seriously affected by the fact that, as of 2001, forced resettlement became part of the Criminal Code of Turkmenistan and is used as a punishment for certain crimes.

(CRC/C/TKM/CO/1). Furthermore, the Committee is also concerned by reports of forced displacement of ethnic minorities, including children.

Independence of the judiciary

43. The Committee on the Elimination of Racial Discrimination noted the absence of cases of racial discrimination referred to the courts (CERD/C/TKM/CO/5) and information according to which members of national and ethnic minorities who suffer racial discrimination do not complain to courts because they fear reprisals and lack confidence in the police and the judicial authorities, and because of the authorities' lack of impartiality and sensitivity to cases of racial discrimination.

Other rights

44. Several other concerns relating to a range of human rights were expressed by treaty bodies and special procedures, including stereotypes regarding the roles and responsibilities of women and men in the family and society, violence against women, the low level of representation of women in public and political life and in decision-making positions, the low percentage of women in higher education and discrimination against women, as reflected in hiring processes and pay gaps. Also of concern were access to health-care services, in particular outside the capital and the possible infringement of the right of everybody to the enjoyment of the highest attainable standard of physical and mental health.

45. No further information was available with regard to other issues relating to the implementation of General Assembly resolution 60/172.

III. Conclusions and recommendations

46. **Gross and systematic violations of human rights continued in the country, notwithstanding gestures made by the Government. Main areas of concern expressed by treaty bodies and special procedures are, in particular, the situation of human rights defenders, severe restrictions on the freedom of expression and to impart information including through repression of political dissent, restrictions on the enjoyment of religion, the situation of minorities, the use of torture, the absence of an independent judiciary and the limited access to health-care services and education.**

47. **The Government of Turkmenistan continued to demonstrate readiness to engage with the international community and the human rights mechanisms, such as the institution of a dialogue with some of the United Nations treaty bodies and the commencement of the implementation of a joint UNDP/OHCHR treaty-body reporting project.**

48. **The Secretary-General in this context invites the Government to continue and expand its cooperation with the Office of the High Commissioner for Human Rights and the United Nations Development Programme with a specific focus on the implementation of the treaty bodies' recommendations. The Secretary-General further invites the Government to extend full cooperation to the High Commissioner's Regional Representative for Central Asia.**

49. The Secretary-General encourages the Government to continue its efforts in the preparation and submission of reports to the United Nations treaty bodies, in particular:

(a) To submit its reports due to the Committee against Torture, the Human Rights Committee and the Committee on Economic, Social and Cultural Rights and to provide detailed information on the actual implementation of the human rights instruments in the country;

(b) To implement the recommendations made by the treaty bodies.

50. The Secretary-General repeats his call upon the Government to extend an invitation to the thematic special mechanisms of the Human Rights Council that have asked to visit the country, in particular the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the question of torture; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on freedom of opinion and expression; the Special Rapporteur on freedom of religion or belief; the Representative of the Secretary-General on the human rights of internally displaced persons; the Special Representative of the Secretary-General on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Special Rapporteur on the right to education; and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

51. The Secretary-General further calls upon the Government to cooperate fully with the special mechanisms in responding to their communications and providing information on the situations and cases referred to.

52. The Secretary-General calls upon the Government to improve the environment for human rights defenders, including by registering independent non-governmental organizations, and stopping harassment, detentions and other forms of intimidation of defenders and civil society organizations, in full compliance with the Declaration on Human Rights Defenders. In that context, the Secretary-General calls upon the Government to ensure that the human rights defenders currently held in custody are afforded the full protection of the international human rights instruments to which Turkmenistan is a party.

53. The Secretary-General further calls upon the Government to take verifiable measures to stop the use of torture and to ensure that all prisoners have access to lawyers of their choice and independent observers.